

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

CALIFORNIA EXPANDED METAL
PRODUCTS COMPANY, a California
corporation; and CLARKWESTERN
DIETRICH BUILDING SYSTEMS LLC, dba
CLARKDIETRICH BUILDING SYSTEMS, an
Ohio limited liability company

Plaintiffs,

v.

JAMES A. KLEIN, an individual;
BLAZEFRAME INDUSTRIES, LTD, a
Washington Company, and SAFTI-SEAL,
INC., a Washington company,

Defendants.

Case No. 2:18-cv-00659-JLR

**STIPULATED MOTION AND
ORDER TO EXTEND DISCOVERY
CUT-OFF**

NOTE ON MOTION CALENDAR:
May 6, 2019

Pursuant to Local Civil Rule 16(b)(5), and subject to the Court's approval, Plaintiffs California Expanded Metal Products Company ("CEMCO") and Clarkwestern Dietrich Building Systems LLC, d.b.a. ClarkDietrich Building Systems ("ClarkDietrich") (collectively "Plaintiffs"), and Defendants James A. Klein, BlazeFrame Industries, Ltd., and Safti-Seal, Inc. (collectively, "Defendants"), by and through their counsel of record, move the Court to extend Discovery cut-off from June 28, 2019 to **July 29, 2019** and related dates as set forth below. The requested extension

1 will *not* affect the Dispositive Motion cut-off of August 6, 2019, the Pretrial conference set for
2 November 25, 2019, or the Trial scheduled for December 2, 2019. Good cause exists for the
3 extension as follows.

4 **STIPULATED MOTION TO EXTEND DISCOVERY CUT-OFF**

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6 Based on the Court's recent Claim Construction Order, Plaintiffs request an extension of
7 the Discovery cut-off because Plaintiffs will file a motion for partial summary judgment on their
8 patent infringement claims by May 10, 2019,¹ the result of which could partially obviate the need
9 for expert discovery.

10 More specifically, on April 17, 2019 the Court issued a 35-page Claim Construction Order,
11 construing in detail the four patents at issue.² (Dkt. #98.) In light of the Court's Claim Construction
12 Order, Plaintiffs diligently requested to meet and confer on the summary judgment motion on April
13 25, 2019, and the Parties met and conferred on May 2, 2019. (Declaration of Dylan C. Dang, ¶1.)
14 Plaintiffs anticipate filing the summary judgment motion on or by May 10, 2019, with a Noting
15 Date of June 7, 2019.

17 Under the Court's Scheduling Order, opening expert reports are also due on May 10, 2019.
18 (Dang Decl., ¶2.) If Plaintiffs prevail on the patent infringement claims, it would obviate the need
19 for the Parties to retain technical experts to opine on infringement. (Patent validity is not at issue
20 in the case. (Dkt. #91).) The Parties could thus devote their resources and focus their efforts on
21 the preparation of expert reports on the issue of damages. On the other hand, if the patent
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25 ¹ Defendants filed a motion for summary judgment on June 28, 2018 (Dkt.#72), which was denied (Dkt. #89).

26 ² U.S. Patent No. 7,681,365 ("the '365 Patent"), U.S. Patent No. 7,814,718 ("the '718 Patent"),
27 U.S. Patent No. 8,136,314 ("the '314 Patent"), and U.S. Patent No. 8,151,526 ("the '526 Patent")
(collectively, "the Patents").

1 infringement claims are not resolved on summary judgment, the Parties request an extension of
2 discovery to address the issues pertaining to both patents and damages.

3
4 Thus, subject to the Court's approval, the Parties have stipulated to extending the deadlines
5 for discovery as follows:
6

7 Event	Current Date	Proposed Date
8 Opening Expert Reports due	May 10, 2019	June 17, 2019
9 Rebuttal Expert Reports due	June 7, 2019	July 15, 2019
10 Discovery cut-off	June 28, 2018	July 29, 2019
11 Dispositive motions (and motions challenging expert witness testimony) due	August 6, 2019	Unchanged
12 Pretrial conference	November 25, 209	Unchanged
13 Trial conference	December 2, 2019	Unchanged

14 The requested extension will not affect the other dates in the case. As Plaintiffs intend to
15 file a dispositive motion well before the August 6, 2019 deadline, the extension of expert
16 discovery will not likely have any impact on the dispositive motion cut-off deadline. The trial
17 scheduled at the end of the year will also not be affected. Therefore, based on the foregoing, the
18 parties respectfully request that the Court GRANT this stipulated motion.

19
20 The court cautions The parties That it will not grant any further extensions
21 of the pretrial deadlines in this matter. Should The parties seek to continue
22 the trial date, They may ask the court to move this matter to the end
23 of the trial calendar. *Del*

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Respectfully submitted,
TROJAN LAW OFFICES
by

May 6, 2019

/s/ R. Joseph Trojan
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May 6, 2019

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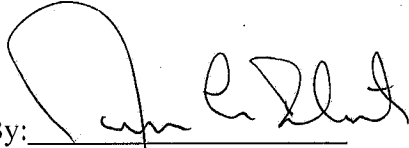
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Attorneys for Defendants.

IT IS SO ORDERED

Dated: 7 May 2019

By: 
The Honorable James L. Robart
United States District Judge

CERTIFICATE OF SERVICE

I hereby certify that on May 6, 2019, I filed the foregoing document with the above-captioned court's CM/ECF system, which will cause it to be served electronically upon all counsel of record:

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